



The Town of Leesburg in Virginia
Leesburg Planning Commission
Meeting Minutes
July 21, 2016

The Leesburg Planning Commission met on Thursday, July 21, 2016 in the Town Council Chamber, 25 West Market Street, Leesburg, VA 20176. Staff members present were Susan Berry-Hill, Chris Murphy, Barbara Notar, and Karen Cicalese.

CALL TO ORDER

The meeting was called to order at 7:00 pm by Chairman Welsh Chamblin

PLEDGE OF ALLEGIANCE AND ROLL CALL

Members Present: Chairman Welsh Chamblin, Commissioners Barnes, Harper, Kidder, and Robinson

Absent: Commissioners Babbins and Burk and Vice Mayor Burk

ADOPTION OF AGENDA

Motion: Commissioner Robinson

Second: Commissioner Harper

Vote: 5-0-2 (Babbins and Burk absent)

APPROVAL OF MINUTES

July 7, 2016

Motion: Commissioner Harper

Second: Commissioner Barnes

Vote: 5-0-2 (Babbins and Burk absent)

DISCLOSURE OF MEETINGS

None

CHAIRMAN'S STATEMENT

Chairman Welsh Chamblin stated that she hoped to be joining the Commission at their next meeting however, this may be her last meeting for a while as she will not be at the September 1st meeting. Commissioner Robinson will act as Chair in her absence.

PETITIONERS

None

PUBLIC HEARING

None

SUBDIVISION AND LAND DEVELOPMENT

None

ZONING

TLTA-2016-0001 and TLOA-2016-0001, Telecommunications Town Plan Amendment and Text Amendment – Susan Berry-Hill, Director, Department of Planning and Zoning and Chris Murphy, Zoning Administrator

Susan Berry-Hill, Director, Department of Planning and Zoning, explained that the plan for this evening was to discuss the Zoning Ordinance text amendment first and then respond to questions, if any, regarding the Town Plan amendment. The Planning Commission had referred the Zoning Ordinance text amendment to the Technology and Communications Commission to review and comment on questions raised by the Commission during the public hearing.

Chris Murphy, Zoning Administrator, provided a review of the June 2, 2016 Planning Commission public hearing, noting that the Commission raised a number of questions and concerns which he addressed as follows:

1. **Ownership of utility poles and exclusive rights that would allow one carrier to monopolize service in the Town.**
The Telecommunication Act of 1996 prohibits such exclusions and requires equal access to all carriers.
2. **Does the Town have policies, contracts, or policies relating to contracts that allow telecommunications installation on traffic signal poles?**
The Town currently does not as a result of existing prohibitions of such installations on utility or signal poles throughout the Town. Should this ordinance be adopted, then such policies will need to be put in place.
3. **The ordinance needs to provide specific regulations prohibiting the blocking of sidewalks by ground mounted equipment boxes.**
Such provisions are included in the 7/21/16 draft text amendment.
4. **What happens to a pole-mounted facility if the pole is eliminated for undergrounding of the utilities?**
It was established that the facility will come down and the facility does not take precedence over the pole.
5. **Due to lack of expertise in such matters on the part of the Commission, it was suggested that the Technology and Communications Commission review the proposed ordinance and make recommendations to the Planning Commission relating to definitions and types of facilities.**
Staff attended the June 7th and July 5th Technology and Communications Commission's meetings and Mr. Murphy discussed their input and recommendations as follows:
 - It was their opinion that the types of antenna utilized in DAS and/or Small Cell applications are standard and not exclusive to any one carrier or another. The dimensions presented in the draft ordinance will not give advantage to any one wireless carrier.
 - The proposed definitions are broad enough to stand the test of time and advancements for now. Due to the rapidity in growth and development of this type of technology, it is nearly impossible to establish definitions that will stand the test of time beyond five to ten years.
 - The proposed changes adequately address the needs of the Town related to today's technology. However, the regulations will need to be reexamined in the near future as technology develops and changes.

- DAS/Small Cell antenna can be located within buildings as an alternative to outside or on a building in some instances. Depending on the type of system being deployed, the interior installation may come in the form of a camouflaged exterior building-mounted or pole-mounted installation such as church steeples, tower clocks, faux cupolas, flagpoles, etc. There is such a system called interior DAS or iDAS that is installed entirely within a building. These systems are typically only used to enhance signal within that specific building where it is installed, and only offers very limited wireless coverage outside in the immediate vicinity of that building.

Mr. Murphy discussed the proposed changes made to Ordinance Section 18.1 Terms Defined, Section 9.2 Use Table, and Section 9.3 Use Standards which address Planning Commission concerns expressed at the June 2nd meeting.

Lastly, Mr. Murphy discussed sample motions and concluded his presentation.

Chairman Welsh Chamblin solicited questions from the Commission members.

Commissioner Barnes asked if the Technology and Communications Commission supported the proposed text amendment. Mr. Murphy answered that they did not have any objections and felt it was something the Town needed to address. The Commission acknowledged the anticipated increase in use which is projected to grow exponentially in future years. In June 2016, the Federal Communications Commission (FCC) released spectrum that was otherwise used for televisions to allow deployment of the new 5G technology. As a result there is going to be a demand for deployment of these systems to meet the demands of the market place.

Commissioner Robinson asked if private companies, such as subcontractors, would be able to put up antennas as well. Mr. Murphy answered that a subcontractor would have to be licensed by the FCC and would be subject to the same regulations.

Commissioner Robinson asked if this precluded all Commissions Permits. Mr. Murphy explained that the revision to the Town Code is to specify that this type of system is to be designated as “feature shown” and would not require a Commission Permit in addition to Special Exception or Conditional Approval. Commissioner Robinson expressed concern regarding the language in Section 9.3.26 regarding existing and replacement poles. Mr. Murphy explained that a pole may need to be replaced with a new pole that is wider or heavier to accommodate the co-located facility. Commissioner Robinson suggested removing “existing” and use “replacement” utility distribution poles as she felt it was contradictory. Mr. Murphy responded that he did not want to change the language as this was a specific provision of the ordinance that says utility distribution pole installation, whether they be replacement or on an existing pole, are limited to the rights of way of roads having a Local Collector classification or higher on the Roadway Network Policy Map in the Leesburg Town Plan.

Commissioner Robinson asked for clarification regarding the maximum antennas allowed in a single canister. Mr. Murphy answered that one canister can have as many antennas as possible based on the size of the canister.

Commissioner Robinson asked if all cabinets were required to be 70 cubic feet in volume. Mr. Murphy clarified that 70 cubic feet was the maximum size. He explained that these dimensions were given to him by representatives of the telecommunications industry and reflected industry standards. Commissioner Robinson expressed concerns regarding the placement of large canisters in the historic and residential districts and would like language to prohibit use in those districts. Mr. Murphy explained that this would only apply to a residential street that was classified as a Local Collector or higher.

Commissioner Robinson also expressed concerns regarding the placement of roof mounted antennas in residential districts as it was her opinion that the proposed 25% area was too large. Mr. Murphy answered that the Planning Commission could recommend an alternate percentage; 25% was considered to be a standard for ancillary uses. Antenna installations are limited to commercial uses only and are only permissible in the O-1, B-1, B-2, B-3, B-4 and I-1 Zoning Districts. Mr. Murphy stated that he will specify, in the use standards, that this is for non-residential buildings and structures only and will be limited to utility poles that are located on roads with a classification of Local Collector or higher.

Commissioner Robinson asked if it would be possible to have the BAR approve two or three examples of permitted systems to allow them by-right in the H-1 and H-2 overlay areas. Ms. Berry-Hill replied that staff can develop performance standards for specific types of DAS/Small Cell systems, which if met, could be administratively approved.

Commissioner Barnes expressed concerns regarding ground mounted equipment in the H-1 and felt it should not be allowed. Ms. Berry-Hill noted that ground mounted equipment may be needed to support some of these antennas and suggested that one of the Verizon representatives, in attendance, discuss what would be applicable in the Historic District

Chairman Welsh Chamblin invited comment from the Verizon representatives.

Ed Donohue came forward to address comments and concerns expressed.

Chairman Welsh Chamblin asked if a ground mount had to accompany the DAS mounted on a pole and if so, what were the typical sizes and dimensions. Mr. Donohue answered that some ground mounting equipment does have to accompany the pole. Some companies, that will approach the Town, are companies that will build for all carriers. Their cabinets will be larger to accommodate the different carriers. Multi-carrier installation is subject to VDOT and DPW spatial requirements, BAR approval and a 4' buffer requirement. Mr. Murphy clarified that it was not a 4' buffer; but rather the clearance required to allow for pedestrian access around it. Mr. Donohue noted that they have been working closely with staff to develop reasonable standards. Verizon can do equipment within a pole in sensitive areas, such as the Historic District. The cabinet would be mounted on the pole as opposed to street furniture. Staff is proposing a pedestal next to the pole which, in his opinion, is advisable as it allows for more facilities.

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Commissioner Kidder asked what the difference is between a cabinet and a shed. Mr. Donohoe explained that a shed is habitable, has a door, can be entered, and often has air conditioning. A cabinet is not habitable.

Commissioner Robinson asked for a picture that depicts the size of the pedestal. Mr. Donohue provided a picture and described it as a pedestal similar to what is used for Verizon land line or Comcast Xfinity uses placed on the streets.

Commissioner Harper stated that she was not in support of utilizing pedestals in the Historic District.

Mr. Murphy summarized that the Planning Commission wished to prohibit the use of any ground equipment where installation is proposed in front of a residential use.

Commissioner Barnes asked if it would be possible to prohibit ground mounted equipment Town wide. Mr. Murphy responded that the Planning Commission could make such a recommendation, however limiting installation to poles only would limit distribution of these systems as not all installations can be pole mounted.

Chairman Welsh Chamblin noted that she did not have an issue with ground mounted equipment in commercial areas; however she would prefer only pole mounted facilities in residential and specifically historic residential areas.

Ms. Berry-Hill asked if the Commission had concerns regarding ground mounted facilities within the H-1 commercial areas.

Mr. Murphy clarified that he would prohibit ground mount facilities in front of a residential use; not residential district. If a facility is located in front of a house in the B1 it will not be permitted to have ground mounted equipment.

Several Planning Commission members expressed concern regarding the use of ground mounted equipment in the H-1 in total. Mr. Murphy clarified that the Planning Commission wished to prohibit ground mounted equipment in both the H-1 and in front of a residential use and inquired as to their desire for the H-2.

Commissioner Barnes stated that he was not in favor of using ground mounted equipment at all.

Commissioner Robinson opined that installations in the H-2 could utilize the camouflaged exterior building-mounted or pole-mounted installation discussed during Mr. Murphy's presentation.

Chairman Welsh Chamblin did not have concerns with utilizing ground mounted equipment in the H-2.

Commissioner Kidder also objected to their use in the H-2 due to their appearance.

Mr. Murphy noted an additional concern. These regulations, if adopted, would allow the power mount installations on the existing utility electric transmission towers. Some of these are located in the H-2. If ground mounted equipment is prohibited in the H-2 then power mount facilities would not be able to have ground mounted installation typical to those facilities.

Chairman Welsh Chamblin clarified that ground mounted installations would be prohibited in the H-2 if in front of a residential use. She was not against utilizing ground mounted equipment in the commercial areas of the H-2.

Commissioner Kidde asked if there were alternative cabinet designs. Mr. Murphy explained that there are stealth applications that would camouflage the cabinet. She was not in favor of utilizing ground mounted equipment within the bypass area but was okay with its use outside the bypass.

Commissioner Robinson noted that she preferred no ground mounted installation within the bypass, but would be able to support stealth applications if needed in this area. She supported their use outside the bypass but expressed concerns related to cabinet size. Mr. Murphy explained that the Planning Commission could recommend limiting pedestal size or the number allowed on any given pole; however that would limit the options for telecommunications providers to co-locate on a single pole. Currently they are permitted to have three in one facility which minimizes how widely spread they are through-out the Town. He suggested recommending that the sheds be required to resemble a building.

Ms. Berry-Hill asked Mr. Donohue to discuss camouflaging techniques that they are familiar with. Mr. Donohue responded that they have utilized creative street furniture in other historic districts and sensitive areas in the past. He noted that the ground equipment is important and currently exists in the right-of-way and is utilized by Comcast and other providers. Setbacks, pedestrians and aesthetics are all factors that are considered when utilizing ground mounted equipment.

After further discussion it was determined that staff would make the recommended changes to reflect the Commission's desire to eliminate ground mounted equipment in the H-1, in front of residential uses and inside the bypass area of the H-2; reevaluate the use of ground mounted equipment in commercial areas and provide examples of larger pedestals; and provide examples of stealth or camouflage techniques.

Discussion moved to the proposed Town Plan Amendment TLTA-2016-0001

Commission Harper asked why a fiscal analysis had not been done. Ms. Berry-Hill explained that staff determined that it was not needed to assess Objective 15 of the Town Plan. If the Planning Commission disagrees staff would welcome their input. Commissioner Harper noted that she was not in agreement and thought it would be important information for the Commission to have.

Chairman Welsh Chamblin polled the Commission members and the majority supported the need for a fiscal analysis

Commissioner Robinson asked for clarification on page 4, bullet 3, of the Staff memo dated July 21, 2016 which addresses the need for commission permits. Ms. Berry-Hill explained that the intent was that anything that is by-right will not require a commission permit. A commission permit will only be required for non by-right facilities which will also require a special exception.

Commissioner Robinson recommended language changes for Objective 4 and Objective 15. Ms. Berry-Hill noted that she would work with Mr. Murphy to address her proposed changes.

Commissioner Robinson asked where DAS was already installed in Virginia. Mr. Donohoe responded that it is in Great Falls, Mount Vernon, Lincolnia, Annandale and McLean.

Chairman Welsh Chamblin noted that several items remained outstanding and continued discussion to the August 4, 2016 meeting to allow staff time to address comments, questions and concerns raised by the Commission.

COMPREHENSIVE PLANNING

None

COUNCIL AND REPRESENTATIVES REPORT

None

STAFF AND COMMITTEE REPORTS

Chairman Welsh Chamblin attended the BAR meeting where discussion continued on the Courthouse and they are close to making a final decision. There were also a number of historic applications that were fairly routine.

Commissioner Harper got a recap of the Parks & Rec meeting from Kate Trask. There was discussion about allowing smoking in the dog park. Sixty percent of the design work has been completed for the skate park and they are expecting a September ground breaking.

STAFF DISCUSSION

None

OLD BUSINESS

None

NEW BUSINESS

H-2 Repeal

Chairman Welsh Chamblin explained that she would like the Planning Commission to make a

decision regarding whether or not there is agreement that some sort of guidelines are needed for the H-2 area. If it is decided that there should be guidelines; should the H-2 guidelines be re-evaluated in conjunction with the BAR. The BAR had discussed this at their first meeting in July and it was determined that the H-2 should be revisited and there was consensus amongst the BAR members that some sort of guidelines are needed. They are interested in having a joint meeting with the Planning Commission which she is in support of. She would like to be able to go back to Council and recommend that there should be guidelines for the H-2 and that the Planning Commission work in conjunction with the BAR to establish what those guidelines should be.

Ms. Berry-Hill explained that on March 8, 2016 Town Council took action to approve a resolution to repeal the H-2 guidelines. The question before the Commission is whether or not the H-2 guidelines should be repealed. She proceeded with basic information about why the H-2 guidelines were approved; basic statistics about the H-2 COA's over the years; background on the H-2 Steering Committee which was initiated by Council to look into the H-2 Corridor and what their recommendations were; and moving forward, factors that should be considered as far as updates.

There has been language in the Town Plan since 1986 that encourage the use of creative urban design practices and a variety of well-related uses that further give the Town its unique identity. The Town Plan really emphasizes the importance of the Historic District as the central feature of the Town and the need to protect it. In April of 1987, the Virginia General Assembly adopted legislation that enabled local governments to establish architectural control districts in areas along arterial streets or highways that are significant routes of tourist access leading to designated historic landmarks, buildings, and districts. In January through August of 1988 the Town of Leesburg had a series of public hearings resulting in Town Council passing a resolution to initiate a study to examine arterial highway corridors that provide access to the Old & Historic District and authorized preparation of design guidelines for new construction along these corridors. In April of 1989 the Land & Community Associates of Charlottesville, Virginia was hired to conduct a study of the highway entrance corridors along U.S. Route 15 and Virginia Route 7 and prepare design guidelines for new development in these areas. In January of 1990 the Leesburg Town Council amended the Zoning Ordinance to create the H-2 Corridor Architectural Control Overlay District and adopted the associated guidelines. In March of 1990 the Board of Architectural Review was assigned the authority to review applications for signs, renovation and new construction in the H-2 Overlay District.

The purpose and intent of the regulation was to ensure quality urban design compatible with Leesburg's historic, architectural and tourist resources; protect vital corridors which form the traditional gateways to the H-1 historic district; stabilize and improve property values; enhance the Town's attraction to tourists and visitors; support and stimulate complimentary development appropriate to the prominence afforded properties contiguous to Leesburg's major arterial routes; and promote health, safety and welfare of the citizens of the town through the benefits of superior design and appearance along arterial highways.

Seven Hundred and Sixty Two Certificate of Appropriateness (COA) applications have been submitted for review in the H-2 Corridor Overlay District since its adoption in 1990. One out of

four COA applications reviewed by staff and the BAR were for the H-2 district. Almost two out of every three H-2 COA applications reviewed (63%) by staff and the BAR were for signs. The remaining 37% of COA applications were for alterations including site work, façade modifications, building additions, demolitions, and new construction. Some notable H-2 projects include St. John's Church, Chevy Chase Bank (Capital One), Tollhouse Office Building, South King Street Center, Toyota Leesburg, and Lowe's.

In 2008 the Leesburg Town Council adopted Resolution No. 2008-160 expressing a concern that the H-2 Corridor Overlay District was not achieving desired outcomes since its establishment in 1990. To assess the effectiveness of the program a committee of the Planning Commission comprised of members of the Planning Commission, Board of Architectural Review and other stakeholders was created. The committee was directed by Town Council to Review the boundaries of the H-2 district and recommend changes, if needed; review options for regulation; determine extent and scope for revisions to the design guidelines; review options for the review process; consider what commission would apply the regulations; determine the number of vested development plans; and develop a draft of the policy guidelines and ordinances. Findings of the 2009 H-2 Committee were as follows:

1. Overlay District Boundaries

The location and depth of the H-2 Corridor Overlay District should be maintained with suggested modifications:

Three (3) areas should be added to the H-2 Corridor Overlay District

Two (2) areas should be added to the H-1 Old & Historic District

One (1) area should be converted from H-2 District to H-1 District

2. Regulatory Program

The H-2 Corridor Overlay District program relies on guidelines that are not specific and which lack the strength to create a sense of place in the corridor. To achieve and maintain an effective program the committee recommended all of the following:

Zoning Ordinance – should regulate design elements that can be stated as standards and should incorporate the design guidelines

Design Guidelines – may not be needed so long as appropriate information is contained in the Zoning Ordinance and the DCSM

Design & Construction Standards Manual (DCSM) – Revisions are necessary to maintain consistency with the Zoning Ordinance and Design Guidelines

Form-based Code – should include prescriptive information regarding site design, street types and architectural requirements that encompass both site and building design. The code may be appropriate to supplant the H-2 District in those locations where the two overlap if adequate design and architectural information is contained in the code. The Crescent Design District was adopted in 2013 to encompass a portion of the H-2 District along East Market & South King streets.

3. Design Guideline Revisions

Different character in each corridor – The existing guidelines are too broad in area and scope and should be revised to recognize the individual character of each of the four corridors; acknowledge the character of different neighborhoods within each corridor;

and provide common landscaping and streetscape types to unify all corridors.

Quality building design – An applicant-friendly review process with reasonable flexibility should address materials for compatibility and visual impact; and regulate height, massing and scale.

Quality site design – Improved guidelines should address zoning and site planning as much as building design. Site plan review should include additional regulations that address streetscape, street planning, pedestrian access and traffic calming measures.

Streetscape – Automobiles and vehicle traffic considerations dominate the design guidelines which should be modified to address building setback, sidewalk materials, curb cuts, median treatment, traffic calming, vehicle speed, lighting height and pedestrian circulation--a major difference between the Leesburg guidelines and other jurisdictions.

Strengthen language – Guidelines are written in language that is general and vague. Use precise language to achieve the intent of the corridor and help guide applicants.

Ms. Berry-Hill explained that the resolution approved by Council was to repeal the H-2. There was no direction, in that resolution, given to staff, Planning Commission or the BAR to specifically look at other alternatives to the H-2. She noted that she had spoken to the Town Manager, given the BAR's preference to revise or replace the H-2 guidelines. If there is consensus amongst the Planning Commission members not to repeal the H-2 but rather to replace or revise the guidelines; it is thought that the Planning Commission needs to go forward to Town Council with this recommendation. Ms. Berry-Hill recommended scheduling a public hearing for the second meeting in September to address the question regarding the H-2 repeal and also provide a recommendation to Council regarding further steps. The Commission may wish to have a joint work session with the BAR to discuss this point prior to the public hearing or get input from the BAR for the public hearing.

Chairman Welsh Chamblin solicited Planning Commission questions as well as their opinion as to whether or not the H-2 should be repealed. If a member is not in favor of the repeal; she asked that they state if they are in support of discussing reevaluating the H-2, to either revise or replace, with the BAR.

Commissioner Harper supported repeal as she felt that a review and recommendation would be a time consuming and wasted effort based on discussions with Town Council members.

Commissioner Robinson asked if the BAR is the only body that uses the H-2 in their review. Ms. Berry-Hill answered that the BAR uses it predominantly; however there have been rezoning applications that are in the H-2 such as the Lowe's application. In that instance, the BAR provided a referral to the Planning Commission on size, scale, and massing which the Commission considered in their review. There are also general guidelines in the Town Plan and staff will use those in review of an application, however they are not as specific as the H-2.

Commissioner Robinson stated that she would prefer not to repeal the H-2 guidelines and would support a review.

Commissioner Kidder was also not in favor of repeal as she felt it would be a terrible mistake. She asked if it were a legal requirement to withhold the Commission's opinion until after the public hearing. Barbara Notar, Town Attorney, responded that it was.

Commissioner Barnes stated that he would support repeal provided that the guidelines were replaced with something else.

Chairman Welsh Chamblin stated that she was not opposed to reviewing the H-2, as it is currently written, and/or possibly replacing H-2. She felt that there should be some type of guidelines such as district, form-based code, or something else. She was not in support of repeal without an alternative. She was comfortable with setting up the public hearing for the second meeting in September and asked if the Commission wanted to meet with the BAR before or after the public hearing.

Commissioner Barnes preferred to meet with the BAR after the public hearing.

Commissioner Robinson would like to return to Council with a list of consequences should the H-2 be repealed and requested that the BAR provide that to the Planning Commission prior to the second meeting in September.

Chairman Welsh Chamblin noted that she was comfortable going to the BAR with this request, however she will be missing the BAR's second meeting in August and the first one in September and asked to have someone attend in her absence. Commissioner Kidder noted that she would attend those meetings.

ADJOURNMENT

The Meeting was adjourned at 9:21 PM

Approved by:

Karen Cicalese, Commission Clerk

Lyndsay Welsh Chamblin, Chairman